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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/798,903	03/11/2004	John Hans Handy-Bosma	AUS920031057US1	7021

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EXAMINER	
IBRAHIM, MOHAMED	

ART UNIT	PAPER NUMBER
2144	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/798,903	HANDY-BOSMA ET AL.	
	Examiner	Art Unit	
	MOHAMED IBRAHIM	2144	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *11 March 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-45* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-45* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *11 March 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *03/11/2004*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-45 are rejected on the ground of nonstatutory double patenting over claims 1-20 of U. S. Patent No. 7321903 since the claims, if allowed, would improperly extend the "right to exclude" already granted in the patent.

The subject matter claimed in the instant application is fully disclosed in the patent and is covered by the patent since the patent and the application are claiming common subject matter, as follows: Both inventions are directed to evaluation programs, distributed content and content rating window. The obvious distinction between the two sets of claims is that instant application is directed to a method for gathering a plurality of evaluations from a plurality of users who evaluate a distributed

content page using a content rating window whereas the patent claims are directed to program product for storing in a data repository a plurality of evaluations from a plurality of users who evaluate a distributed content page using a content rating window.

Furthermore, there is no apparent reason why applicant was prevented from presenting claims corresponding to those of the instant application during prosecution of the application which matured into a patent. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

Specification

3. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The phrase "computer program product" and "computer usable medium" used in the original claim of 22 are lacking proper antecedent basis from the specification.

Claims 8 and 29 include the phrases, "repeating the steps of claim 7" and "repeating the steps of claim 24" respectively. Since claim 8 depends from claim 7, and claim 29 depends from claim 24, the need to include such additional phrases is unclear.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 43 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant

regards as the invention. On the 22, line 11 of the claims, there the phrase "means for repeating the steps herein." It is not clear which of the many steps discloses in the instant claim Applicant is referring to. Additionally, the claim combines means plus function language as well as structures of certain claimed features. It is not clear what Applicant is intending to do with this claim which is neither clearly written nor introduce any additional claimed feature that have not been addressed. It is suggested that claim 43 be re-written in clearer manner and if Applicants wants to invoke properly 112 6th paragraph, to re-write the claimed limitations excluding the actual structure of the means plus function.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1and 22 are rejected under 35 U.S.C. 102(e) as being anticipated by Shen et al. (Shen), U. S. Patent Application Publication No. 2004/0204983.

Regarding claim 1, Shen discloses a method for gathering a plurality of evaluations from a plurality of users who evaluate a distributed content page using a content rating window (see e.g. paragraphs [0017], [0048] and [0091]; a window is presented to the user to provide survey feedback); wherein the content rating window is based on the characteristics of each user (see e.g. paragraphs [0018] and [0044]; the feedback from the user is determined based on description or characteristic of the user).

Claim 22 list all the same elements of claim 1, but in a program product form rather than method form. Therefore, the supporting rationale of the rejection to claim 1 applies equally as well to claim 22.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

9. Claims 2-21 and 23-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shen in view of Fukumoto et al (Fukumoto), U. S. Patent Application Publication No. 2004/0019677.

Regarding claim 2, Shen discloses wherein the evaluation program performs steps comprising: accepting access by one of the plurality of users to the distributed content

page (see e.g. Fig. 2, paragraph [0050], [0076], [0088] and [0089]); creating a user session (see e.g. paragraph [0076]); accepting a user evaluation of the distributed content page (see e.g. paragraph [0067] and [0092]); and saving the user evaluation as a user rating, wherein the user rating is cross-referenced with the user session (see e.g. paragraph [0043] and [0093]).

Although Shen discloses the invention substantially as claimed, it does not explicitly disclose installing an evaluation program on a computer.

Fukumoto teaches site evaluation system that evaluates one or more pages. It further teaches installing evaluation program (EP) on a computer. At the time of the invention it would have been obvious to combine the teaching of Fukumoto with that of Shen. Motivation for doing so would have been to provide and enable evaluations with less errors and inconsistency (see Fukumoto, paragraph [0008]).

Regarding claim 3, Shen-Fukumoto teaches wherein the user session tracks the user's navigation of a plurality of the distributed content pages (see e.g. paragraph [0076]).

Regarding claim 4, Shen-Fukumoto teaches wherein the evaluation program further performs steps comprising: determining whether the distributed content page is associated with the content rating window (see e.g. paragraph [0091]); responsive to the determination that the distributed content page is associated with the content rating window, determining whether the user meets a minimum evaluation criteria for the content rating window (see e.g. paragraph [0095]); responsive to the determination that

the user meets the minimum evaluation criteria for the content rating window, giving the user the opportunity to evaluate the distributed content page (see e.g. paragraph [0017]); determining whether the user desires to evaluate the distributed content page (see e.g. paragraphs [01110 and [0122]); and responsive to the determination that the user desires to evaluate the distributed content page, displaying the content rating window (see paragraphs [0092] and [0093]).

Regarding claim 5, Shen-Fukumoto teaches wherein the evaluation program further performs steps comprising: responsive to the determination that the distributed content page is not associated with the content rating window, determining whether the user has accessed a different distributed content page (see e.g. paragraph [0076]).

Regarding claim 6, Shen-Fukumoto teaches wherein the evaluation program further performs steps comprising: responsive to the determination that the user does not meet the minimum evaluation criteria for the content rating window, determining whether the user has accessed the different distributed content page (see e.g. paragraphs [0076], [0087] and [0088]).

Regarding claim 7, Shen-Fukumoto teaches wherein the evaluation program further performs steps comprising: responsive to the determination that the user does not desire to evaluate the distributed content page, determining whether the user has accessed the different distributed content page (see e.g. paragraphs [0076], [0087] and

[0088]).

Regarding claim 8, Shen-Fukumoto teaches wherein the evaluation program further performs steps comprising: responsive to the determination that the user has accessed the different distributed content page, repeating the steps in claim 7 (see e.g. paragraph [0076]).

Regarding claim 9, Shen-Fukumoto teaches wherein the evaluation program further performs steps comprising: responsive to the determination that the user has not accessed the different distributed content page, closing the user session (see e.g. paragraphs [0076], [0087] and [0088]).

Regarding claim 10, Shen-Fukumoto teaches wherein the user is offered an incentive for evaluating the distributed content page (see e.g. paragraph [0091]).

Regarding claim 11, Shen-Fukumoto teaches wherein the incentive is gifts, points, or miles (see e.g. paragraph [0091]).

Regarding claim 12, Shen-Fukumoto teaches wherein the incentive is tracked in the user rating (see e.g. paragraphs [0017] and [0091]).

Regarding claim 13, Shen-Fukumoto teaches wherein the user saves the user rating in

a memory and completes the user rating at a later date (see e.g. paragraph [0049]).

Regarding claim 14, Shen-Fukumoto teaches wherein the user rating may be categorized by any of the fields in the user session or the user rating (see e.g. paragraphs [0049] and [0113]).

Regarding claim 15, Shen-Fukumoto teaches wherein the user completes the user rating by email, web browser, or telephone (see e.g. paragraphs [0049] and [0088]).

Regarding claim 16, Shen-Fukumoto teaches wherein the user rating gathers evaluative information from the user based on the user's complete navigation of the plurality of the distributed content pages (see e.g. paragraph [0111]).

Regarding claim 17, Shen-Fukumoto teaches wherein the user rating allows the user to evaluate the plurality of the distributed content pages (see e.g. paragraphs [0048]).

Regarding claim 18, Shen-Fukumoto teaches wherein the user reviews the distributed content page simultaneous with reviewing the content rating window (see e.g. paragraphs [0048]).

Regarding claim 19, Shen-Fukumoto teaches wherein distributed content administrator can distinguish between an accidental distributed content page request and an

intentional distributed content page request by analyzing a duration data in the user session (see e.g. paragraphs [0076] and [0115]).

Regarding claim 20, Shen-Fukumoto teaches wherein the distributed content page is a webpage (see e.g. fig. 3 and paragraph [0087]).

Regarding claim 21, Shen-Fukumoto teaches wherein the distributed content page is displayed on a portable electronic device (see e.g. paragraph [0122]).

Regarding claim 23, the limitation of this claim has already been addressed (see claim 3 above).

Regarding claim 24, the limitations of this claim have already been addressed (see claim 4 above).

Regarding claim 25, the limitation of this claim has already been addressed (see claim 1 above).

Regarding claims 26-42, these claims correspond to claims 5-21 and thus disclose limitations that have already been addressed (see claims 5-21 above).

Regarding claim 43, the claim lists all the same elements addressed in claim 1-21 and instead of method it is directed to an apparatus. Thus the claim does not introduce any new features which have not been addressed above. Thus the combined rejection applied in claims 1-21, equally applies to claim 43.

Regarding claim 44, the limitation of this claim has already been addressed (see claim 11 above).

Regarding claim 45, the limitation of this claim has already been addressed (see claim 12 above).

Prior Art of Record

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Please refer to form PTO-892 (Notice of Reference Cited) for a list of relevant prior art.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MOHAMED IBRAHIM whose telephone number is (571)270-1132. The examiner can normally be reached on Monday through Friday from 7:30AM to 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William C. Vaughn, Jr. can be reached on 571-272-3922. The fax phone

number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/MI/

/William C. Vaughn, Jr./

Supervisory Patent Examiner, Art Unit 2144